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Gelita USA Inc. and United Food and Commercial Workers International Union, Local 1142. Cases 18-CA-18406 and 18-RC-17500

January 4, 2011

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS BECKER AND PEARCE

On April 30, 2008, the two sitting members of the Board issued a Decision, Order, and Direction in this proceeding, which is reported at 352 NLRB 406. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained.

On September 7, 2010, the Acting General Counsel requested, in view of the Court's decision in *New Process Steel*, that a duly constituted Board review this case on the grounds that the Acting General Counsel has issued a new complaint against the Respondent alleging a continuation of the earlier unlawful conduct including acts by the same supervisors and managers. The Acting General Counsel further stated that he intends to rely on findings in this case as evidence in the new case. The Acting General Counsel's motion is unopposed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Board has considered the judge's decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 352 NLRB 406 (2008), which is incorporated herein by reference.³

Dated, Washington, D.C. January 4, 2011

Wilma B. Liebman,	Chairman
Craig Becker,	Member
Mark Gaston Pearce,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the remaining member who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Member not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

³ We do not, however, incorporate the personal statement of former Chairman Schaumber set forth in fn. 2 of the two-member decision. Chairman Liebman joins in this decision granting the Acting General Counsel's motion solely because it is unopposed.